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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/291,748	04/14/1999	FREDERIC GOURGUE	Q053991	2494

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EXAMINER

SWICKHAMER, CHRISTOPHER M

ART UNIT

PAPER NUMBER

2697

DATE MAILED: 07/21/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/291,748

Applicant(s)

GOURGUE ET AL.

Examiner

Christopher M Swickhamer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5 and 6 is/are rejected.
- 7) ☒ Claim(s) 2 and 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office Action is in response to the Amendment filed 05/28/03. The Examiner approves the proposed drawing corrections. On Figure 8, the Examiner suggests removing more of the line between S, S', and S'' than what is shown in the proposed drawing changes to eliminate possible confusion by the reader. Amended claims 1-4 have been entered. Claims 1-6 are pending, currently no claims are in condition for allowance.

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

- The abstract of the disclosure is objected to because the fifth, eighth, and second to last line of the amended abstract of the current application contains the legal phraseology "means." Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, and 5-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Popovic (USP 6,393,047). Referring to claims 1, 5 and 6, Popovic discloses a device, radio station transceiver (mobile station), and a base station (base transceiver station) enabling different spreading factors while preserving a common spreading code (scrambling code) for transmission in a code division multiple access cellular mobile radio system (abstract), the device comprising, on transmission, spreading (scrambling) means for applying a spreading (scrambling) code of length  $L$  ( $Q_{MAX}$ ) which is a multiple of said different spreading factors, the different spreading factors are channelization codes based on so-called Orthogonal Variable Spreading Factor (OVSF) codes (Fig. 3, col. 6, lns. 1-15), to blocks of  $L$  ( $Q_{MAX}$ ) basic symbols obtained by spreading by means of any of said spreading factors (col. 6, lns. 25-40). One way to implement multiple data rates is to use data rates corresponding to different spreading factors, where the length of the spreading code should be some integer multiple of each possible spreading factor (col. 3, lns. 1-21).

Referring to claim 3, Popovic discloses a device enabling different spreading factors while preserving a common spreading code (scrambling code), in particular for transmission in a code division multiple access cellular mobile radio system (abstract), the device comprising, on reception, descrambling means for applying a scrambling code of length  $L$  ( $Q_{MAX}$ ) which is a multiple of said different spreading factors, the different spreading factors are channelization codes based on so-called Orthogonal Variable Spreading Factor (OVSF) codes (Fig. 3, col. 6,

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Ins. 1-15), to blocks of  $L$  ( $Q_{MAX}$ ) basic symbols obtained by spreading by means of any of said spreading factors (col. 6, Ins. 25-40). One way to implement multiple data rates is to use data rates corresponding to different spreading factors, where the length of the spreading code should be some integer multiple of each possible spreading factor (col. 3, Ins. 1-21).

***Allowable Subject Matter***

5. Claims 2 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

- Claims 2 & 4 are allowable over the prior art in combination with Claim 1 since the cited reference fails to particularly disclose a device that groups the  $k$ th incoming sequence ( $k=1, \dots, K$ ) into different blocks of  $Q_{max}/Q_k$  symbols and spreading/despreading the different blocks from the  $k$ th incoming sequence ( $k=1, \dots, K$ ) by means of the corresponding code of length  $Q_k$  to obtain a spread sequence including different spread blocks of length  $Q_{max}$ , and further scrambling/descrambling the sequences of length  $Q_{max}$ . It is noted the closest prior art of record, Popovic shows a similar scrambling/descrambling method with a spreading or scrambling code using a code whose length is of multiples of the spreading factors. However, Popovic fails to disclose the process of placing groups of data symbols into blocks determined by the length of the scrambling code divided by the spreading factor, spreading the blocks of the incoming sequence by a code the length of the spreading sequence to obtain a spread sequence of the length of the scrambling code, and then applying the scrambling code of a certain length to the spread sequences.

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***Response to Arguments***

6. Applicant's arguments with respect to claim 1-6 have been considered but are moot in view of the new ground(s) of rejection.


***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M Swickhamer whose telephone number is (703) 306.4820. The examiner can normally be reached on 8:00-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (703) 305.4798. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-9571 for regular communications and (703) 872.9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305.3900.

CMS  
July 9, 2003

  
RICKY NGO  
PRIMARY EXAMINER